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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,215	12/29/2000	Hyon Chang Lim	0630-1203P	6996

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EXAMINER	
LEZAK, ARRIENNE M	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/750,215	LIM, HYON CHANG	
	Examiner	Art Unit	
	Arrienne M. Lezak	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-14 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Examiner notes that Claims 9-14 have been added, Claims 1-5, 7 & 8 have been amended and no Claims have been cancelled. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 4 May 2004 as reiterated herein below.

2. Applicant's arguments and amendments filed on 1 September 2004 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained herein below, as necessitated by Applicant's substantive claim amendments (i.e., *by Applicant's reference to a specific client rather than one of many clients, as well as the addition of Claims 9-14*), and which amendments have significantly affected the scope of the claim language.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Newly amended Claims 1-5, 7 & 8, Original Claim 6 and Newly Added Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of US Patent US 6,516,350 B1 to Lumelsky.

5. Regarding Newly Amended Claims 1 & 4, Original Claim 6 and New Claims 9 & 12, Lumelsky teaches a method and apparatus for providing service in a network environment in which a server and a plurality of clients are connected with each other and the server, (comprising an application program, an OS and a network connection - per pending Claim 5), provides a multimedia service according to a request of a client, (Abstract), comprising:

- a service requesting step in which one of a plurality of clients requests a multimedia service from the server, (Col. 15, lines 32-40);
- a capability negotiation step in which it is evaluated whether the server is to generate a session to provide a multimedia service according to the request by the one client, (Col. 15, lines 32-67 and Col 16, lines 1-22), (Examiner notes that the generation of a new session by a server, for any particular client or number of clients, would have been obvious in light of the teachings of Lumelsky as a means by which any client(s) on the network would have access to any network resource(s) on request, per adaptive resource management, (Col. 5, lines 7-10));

- service providing step in which the server provides a multimedia (or text – per pending Claim 6) service to one of the clients through the capability negotiation, (Col. 15, lines 32-67 and Col 16, lines 1-22).

Thus Newly Amended Claims 1 & 4, Original Claim 6 and New Claims 9 & 12 are found to be unpatentable over considerable consideration of the teachings of Lumelsky.

6. Regarding Newly Amended Claims 2 & 8 and New Claims 10 & 13, Lumelsky discloses a method and apparatus for providing service in a network environment wherein the capability negotiation step comprises the sub-steps of:

- a management capability, (per pending Claim 8), (Col. 5, lines 12-36), for evaluating an available amount of a CPU and a memory of the server;
- evaluating an available amount of a bandwidth of a network connecting the server and the clients;
- evaluating an available amount of a CPU and a memory of the one client;
- and generating the new session in case that the resources of the server, the one client and the network are available after being evaluated, (Fig. 10; Col. 12, lines 26-52; Col. 15, lines 32-67 and Col 16, lines 1-22).

Thus Newly Amended Claims 2 & 8 and New Claims 10 & 13 are found to be unpatentable over considerable consideration of the teachings of Lumelsky.

7. Regarding Newly Amended Claims 3 & 7 and New Claims 11 & 14, as noted above, Lumelsky discloses a method and apparatus for providing service in a network environment wherein the generation of a new session is contingent upon resource availability as evaluated by negotiation. Lumelsky does not specifically note the refusal to generate a new session in the event of resource unavailability. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate a resource unavailability contingency into the Lumelsky method and apparatus, as a purpose of the Lumelsky invention is to provide a system and method for managing and controlling the distribution, sharing and pooling of resources in a beneficial manner to requesting users of multimedia content, (Col. 5, lines 12-25).

8. Obviously, (and perhaps even inherently), it would not be beneficial to attempt to provide multimedia content within an environment comprised of insufficient resources. The ultimate result would be a failure to provide said multimedia content, and in the process, valuable resources would be expended unnecessarily in a futile attempt. Therefore, a beneficial default functionality would obviously, (and perhaps even inherently), comprise the ability to refuse generation of a new session in the event of resource unavailability. Thus, Newly Amended Claims 3 & 7 and New Claims 11 & 14 are found to be unpatentable over further consideration of the teachings of Lumelsky.

Response to Arguments

9. Applicant's arguments filed 1 September 2004, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c)

because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

10. Applicant's arguments include the failure of previously applied art to expressly disclose "a service requesting step in which one of the plurality of client requests a multimedia service from the server". It is evident from the detailed mappings found in the above rejection(s) that Lumelsky discloses this functionality, as Examiner notes that the "service control plane" (SCP) is obviously a computer resource, (per its various negotiating and processing capabilities), and as such would obviously be read to be incorporated within a server environment, particularly in this case wherein Lumelsky teaches the SCP providing control and management of the server-side resources. Further, it is clear from prior art that server-side load-balancing and redirection was widely implemented in the networking art and further incorporates software capable of being implemented on a single server or any number of servers in a group which server, (or group of servers) would obviously be capable of receiving and negotiating requests from any number of clients. Thus, Examiner finds, (per Fig. 4), that the SCP can be incorporated within any server and still perform its designated functionalities, which functionalities clearly render Applicant's invention obvious. Thus, Applicant's arguments drawn toward distinction of the claimed invention and the prior art teachings on this point are not considered persuasive.

11. Examiner has addressed Applicant's Amendment, and has further rejected all Amended, Original and Newly Added Claims, as noted herein above. Applicant's

amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
Examiner
Art Unit 2143

AML

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